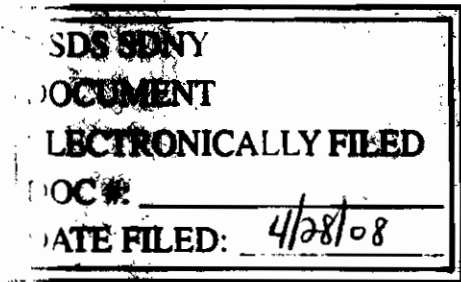


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



TOPACIO,

Plaintiff,

-against-

07 Civ. 8342 (CM)

VERIZON COMMUNICATIONS INC.,

Defendant.

SCHEDULING ORDER

McMahon, J.:

By order dated November 13, 2007, I stayed all proceedings in this matter (which had been removed from the New York State Supreme Court) for 90 days to allow for immediate settlement negotiations. The 90 days expired in mid-February.

On April 25 – approximately 60 days after the stay expired – I received a letter from counsel for plaintiff that stated, in its entirety, “We now write jointly with Defendant to provide a status update and notify the Court that the parties continue to engage in settlement negotiations.” No acknowledgement that this letter was sent long after the stay of proceedings had expired, no request for a further stay (self-help having proved so successful) – simply a report that the parties were still negotiating.

The parties have now had almost a half year without moving this matter forward. The stay I imposed last November has long since expired, and I am not inclined to reinstate it. The parties have 90 days from today’s date to finish *all* discovery, including expert discovery, and the final pre-trial order is due 30 days thereafter. Nothing preclude a continuation of settlement negotiations, but it will not happen at the expense of litigating on the merits. If this schedule is not to your liking, then stipulate to send the case to the magistrate judge for all purposes and submit the necessary order.

Dated: April 28, 2008



U.S.D.J.

BY ECF TO ALL COUNSEL